

ESTTA Tracking number: **ESTTA213326**Filing date: **05/23/2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Richard Starkey c/o Bruce V. Grakal, Esq.
Granted to Date of previous extension	05/25/2008
Address	1541 Ocean Boulevard Santa Monica, CA 90401 UNITED STATES
Party who filed Extension of time to oppose	Richard Starkey
Relationship to party who filed Extension of time to oppose	Entered value: 'c/o Bruce V. Grakal, Esq.1541 Ocean Boulevard' into field named 'Street address line 1' was longer than 40 characters required by PTO

Attorney information	Stephen J. Strauss Fulwider Patton LLP 6060 Center Drive, Tenth Floor Los Angeles, CA 90045 UNITED STATES docketla@fulpat.com, sstrauss@fulpat.com, aharvey@fulpat.com Phone:310-824-5555
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Applicant Information

Application No	77200540	Publication date	11/27/2007
Opposition Filing Date	05/23/2008	Opposition Period Ends	05/25/2008
Applicant	My Anxious Mouth, Inc. c/o Kilpatrick Stockton LLP 1100 Peachtree Street, Suite 2800 Atlanta, GA 303094530 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2006/10/07 First Use In Commerce: 2006/10/07
All goods and services in the class are opposed, namely: Entertainment services, namely, live musical performances

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Dilution	Trademark Act section 43(c)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2494026	Application Date	02/02/2000
Registration Date	10/02/2001	Foreign Priority Date	NONE
Word Mark	RINGO STARR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1962/07/01 First Use In Commerce: 1962/07/01 ENTERTAINMENT IN THE NATURE OF A LIVE MUSICAL GROUP AND PERFORMANCE; ENTERTAINMENT SERVICES, NAMELY, PROVIDING TELEVISION AND RADIO PROGRAMS IN THE FIELD OF MUSIC AND ENTERTAINMENT VIA A GLOBAL COMPUTER NETWORK; SOUND AND VIDEOTAPE RECORDING PRODUCTION, MOTION PICTURE FILM PRODUCTION, PRODUCTION AND DISTRIBUTION OF ENTERTAINMENT AND MUSIC PROGRAMS FOR RADIO, TELEVISION, CABLE, SATELLITE, PAY-PER-VIEW, INTERACTIVE MEDIA, HOME VIDEO MARKETS; AND MULTIMEDIA PRODUCTION SERVICES IN THE FIELD OF MUSIC AND ENTERTAINMENT		

U.S. Registration No.	3334665	Application Date	02/21/2006
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	RINGO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1962/07/01 First Use In Commerce: 1962/07/01 ENTERTAINMENT SERVICES IN THE NATURE OF LIVE MUSICAL PERFORMANCES; ENTERTAINMENT, NAMELY, LIVE MUSIC CONCERTS; ENTERTAINMENT SERVICES, NAMELY, PROVIDING A WEB SITE FEATURING MUSICAL PERFORMANCES, MUSICAL VIDEOS, RELATED FILM CLIPS, PHOTOGRAPHS, AND OTHER MULTIMEDIA MATERIALS; AND FAN CLUBS		

Attachments	75908569#TMSN.gif (1 page)(bytes) 78820180#TMSN.jpeg (1 page)(bytes) gringo opposition.pdf (12 pages)(325161 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Stephen J. Strauss/
Name	Stephen J. Strauss

Date	05/23/2008
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of:
Serial No.: 77/200,540
Filed: June 6, 2007
Mark: GRINGO STAR
Published: December 27, 2007
Applicant: My Anxious Mouth, Inc.

RICHARD STARKEY aka RINGO STARR,

Opposer,

v.

MY ANXIOUS MOUTH, INC.,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

To Commissioner of Trademarks:

Richard Starkey, a citizen of the United Kingdom, also known as Ringo Starr, having a business address at 1541 Ocean Avenue, Suite 200, Santa Monica, California 90401 (“OPPOSER”), believes that he will be damaged by the registration of the mark shown in Application Serial No. 77/200,540 and hereby opposes same.

As grounds for this Notice, it is alleged upon information and belief that:

1. OPPOSER is an internationally famous entertainer and musical artist who performs under the distinctive stage names and marks RINGO and RINGO STARR. As the drummer for The Beatles from 1962 to 1970, OPPOSER became one of the most influential and

famous musicians of the late 20th century. RINGO and RINGO STARR are not known merely as the names and marks of OPPOSER as a famous British musician. Since at least as early as 1962, OPPOSER has used RINGO and RINGO STARR as trademarks and service marks in connection with a wide variety of goods and services, including sound and video recordings, musical instruments, figurines, toys and games, magazines, entertainment services, and clothing sold throughout the United States and the world.

2. OPPOSER is the owner of all goodwill associated with United States Service Mark Registration No. 2,494,026, issued by the United States Patent and Trademark Office on October 2, 2001, covering the RINGO STARR mark for “entertainment in the nature of a live musical group and performance; entertainment services, namely, providing television and radio programs in the field of music and entertainment via a global computer network; sound and videotape recording production, motion picture film production, production and distribution of entertainment and music programs for radio, television, cable, satellite, pay-per-view, interactive media, home video markets; and multimedia production services in the field of music and entertainment” in International Class 41. A copy of United States Service Mark Registration No. 2,494,026 is attached hereto as Exhibit A.

3. OPPOSER is also the owner of all goodwill associated with United States Service Mark Registration No. 3,334,665, issued by the United States Patent and Trademark Office on November 13, 2007, covering the mark RINGO for “entertainment services in the nature of live musical performances; entertainment, namely, live music concerts; entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips, photographs, and other multimedia materials; and fan clubs” in International Class 41. A copy of United States Service Mark Registration No. 3,334,665 is attached hereto as Exhibit B.

4. United States Service Mark Registration Nos. 2,494,026 and 3,334,665 have neither been canceled nor abandoned, have been used continuously since adoption, and are valid and currently in full force and effect. United States Service Mark Registration No. 2,494,026 is also now incontestable. OPPOSER also claims common law trademark rights in the RINGO, RINGO STARR marks (hereinafter collectively referred to the “RINGO STARR Marks”) for the services identified in paragraphs 2 and 3 above.

5. OPPOSER has developed an exceedingly valuable goodwill with respect to his RINGO STARR Marks. OPPOSER’s RINGO STARR Marks have become widely and favorably known throughout the United States and worldwide and have become recognized by the entertainment and music industry and consumers of entertainment and music products as identifying and distinguishing OPPOSER as the source and origin of the services identified in paragraph 2, bearing the RINGO STARR Marks. These marks are very valuable to OPPOSER and any registration by APPLICANT of a confusingly similar mark will cause immediate and irreparable harm to OPPOSER.

6. OPPOSER has expended great effort and considerable expense in advertising, promoting, offering for sale and selling his services under the RINGO STARR Marks in the United States and elsewhere throughout the world.

7. The RINGO STARR Marks are recognized throughout the world, and in the United States, as identifying the musical artist and entertainer Ringo Starr and music works and entertainment programs and products created by Ringo Starr.

8. The RINGO STARR Marks are not names which are commonly used in the United States other than as the names and marks used to identify the musical artist and entertainer Ringo Starr.

9. The RINGO STARR Marks have no meaning in the English language other than as the names and marks used to identify the musical artist and entertainer Ringo Starr.

10. OPPOSER is informed and believes, and on that ground avers that My Anxious Mouth, Inc. ("APPLICANT") is a Georgia corporation having an address c/o Kilpatrick Stockton LLP, 1100 Peachtree Street, Suite 2800, Atlanta, Georgia 30309-4530 .

11. APPLICANT seeks to register the mark GRINGO STAR and filed a service mark application (No. 77/200,540) on June 6, 2007 covering the mark for "entertainment services, namely, live musical performances" in International Class 41.

12. OPPOSER's first use of the RINGO STARR Marks, as well as the effective date of United States Service Mark Registration No. 2,494,026, is prior to APPLICANT's filing of Application Serial No. 77/200,540 or any subsequent claimed first use of the GRINGO STAR mark by APPLICANT.

13. On information and belief, APPLICANT had knowledge of the public recognition of the RINGO STARR Marks as referring to OPPOSER, when it filed Application Serial No. 77/200,540 for the GRINGO STAR mark.

LIKELIHOOD OF CONFUSION

14. Upon information and belief, the Class 41 services specified in APPLICANT's GRINGO STAR application are distributed through similar, if not identical, channels of trade and marketed under similar, if not identical, circumstances to a same or similar class of purchasers as the entertainment services marketed by OPPOSER under its RINGO STARR Marks.

15. If the APPLICANT is permitted to use and register its GRINGO STAR mark for the Class 41 services specified in the application herein opposed, confusion in the entertainment

and music industry and the general public resulting in damage and injury to OPPOSER would be caused and would result by reason of the similarity between APPLICANT's GRINGO STAR mark and the OPPOSER's RINGO STARR Marks. Persons familiar with OPPOSER's RINGO STARR Marks would be likely to purchase APPLICANT's live musical performance services as and for a service produced, marketed and sold by OPPOSER. Any defect, objection or fault found with APPLICANT's services marketed and sold under the GRINGO STAR mark would necessarily reflect upon and seriously injure the reputation which the OPPOSER has established for his entertainment services under his RINGO STARR Marks.

16. If APPLICANT is granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of its mark. Such registration would be a source of damage and injury to the OPPOSER, including but not limited to, placing a cloud upon the right of OPPOSER to naturally expand use or registration of his RINGO STARR Marks or other trademarks and service marks, to any other related goods or services not specifically defined within the above-identified Federal Registration including those services identified in Serial No. 77/200,540.

17. By reason of the foregoing allegations, OPPOSER has the right to use and register trademarks and service marks which are believed to be confusingly similar to the GRINGO STAR mark sought to be registered by APPLICANT, and OPPOSER believes he will be damaged by registration of the mark shown in the opposed application.

FALSE SUGGESTION OF CONNECTION WITH OPPOSER

18. The RINGO STARR Marks are unmistakably associated with OPPOSER. The marks, when used on goods and services, suggests to the public as pointing uniquely and unmistakably to OPPOSER. OPPOSER is not connected in any way with the entertainment

services performed by APPLICANT under the GRINGO STAR mark, and OPPOSER is of sufficient fame and name to the consumer that a connection with OPPOSER would be presumed when APPLICANT's GRINGO STAR mark is used in connection with APPLICANT's services.

19. Upon information and belief, APPLICANT employs the GRINGO STAR mark with the intent to appropriate to the consumer upon the substantial goodwill and recognition that have accrued with OPPOSER and his RINGO STARR Marks.

20. The GRINGO STAR mark which APPLICANT seeks to register under Application Serial No. 77/200,540, when applied to the Class 41 services identified therein, falsely suggests a connection with OPPOSER and his RINGO STARR Marks within the meaning of Section of 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

DILUTION

21. OPPOSER's RINGO STARR Marks have become famous within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

22. OPPOSER's RINGO STARR Marks will be diluted by the registration of APPLICANT's GRINGO STAR mark.

23. For the reasons noted above, OPPOSER would be damaged by the registration of APPLICANT's GRINGO STAR mark under Application Serial No. 77/200,540.

WHEREFORE, OPPOSER prays that registration of the mark shown in Application Serial No. 77/200,540 published on December 27, 2007 in the Official Gazette, for the International Class 41 services specified therein, be refused and denied, and that this opposition be sustained.

OPPOSER hereby gives notice under Rule 2.122(d) of the Rules of Practice that after hearing and any appeal on this opposition proceeding, he will rely on his registration which is

annexed as an exhibit to this Notice of Opposition as evidence in support of this Notice of Opposition.

Respectfully submitted,

FULWIDER PATTON LLP

Dated: May 23, 2008

By: _____

Stephen J. Strauss
Attorney for Opposer

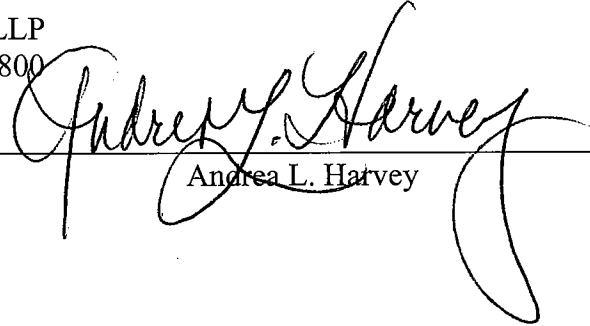
6060 Center Drive, Tenth Floor
Los Angeles, California 90045
(310) 824-5555

231358.1

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing NOTICE OF OPPOSITION upon Applicant by depositing one copy thereof in the United States Mail with First Class postage affixed thereon on May 23, 2008, addressed as follows:

James A. Trigg, Esq.
KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530



Andrea L. Harvey

EXHIBIT A

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 2,494,026

Registered Oct. 2, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

RINGO STARR

STARKEY, RICHARD (UNITED KINGDOM CITIZEN), AKA RINGO STARR
1541 OCEAN BOULEVARD
SUITE 200
SANTA MONICA, CA 90401

FOR: ENTERTAINMENT IN THE NATURE OF A LIVE MUSICAL GROUP AND PERFORMANCE; ENTERTAINMENT SERVICES, NAMELY, PROVIDING TELEVISION AND RADIO PROGRAMS IN THE FIELD OF MUSIC AND ENTERTAINMENT VIA A GLOBAL COMPUTER NETWORK; SOUND AND VIDEOTAPE RECORDING PRODUCTION, MOTION PICTURE FILM PRODUCTION, PRODUC-

TION AND DISTRIBUTION OF ENTERTAINMENT AND MUSIC PROGRAMS FOR RADIO, TELEVISION, CABLE, SATELLITE, PAY-PER-VIEW, INTERACTIVE MEDIA, HOME VIDEO MARKETS; AND MULTIMEDIA PRODUCTION SERVICES IN THE FIELD OF MUSIC AND ENTERTAINMENT, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 7-1-1962; IN COMMERCE 7-1-1962.

SER. NO. 75-908,569, FILED 2-2-2000.

RUDY R. SINGLETON, EXAMINING ATTORNEY

EXHIBIT B

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 3,334,665

Registered Nov. 13, 2007

**SERVICE MARK
PRINCIPAL REGISTER**

RINGO

RICHARD STARKEY AKA RINGO STARR (UNITED KINGDOM INDIVIDUAL)
C/O BRUCE V. GRAKAL, ESQ., 1541 OCEAN BOULEVARD, SUITE 200;
SANTA MONICA, CA 90401

FOR: ENTERTAINMENT SERVICES IN THE NATURE OF LIVE MUSICAL PERFORMANCES; ENTERTAINMENT, NAMELY, LIVE MUSIC CONCERTS; ENTERTAINMENT SERVICES, NAMELY, PROVIDING A WEB SITE FEATURING MUSICAL PERFORMANCES, MUSICAL VIDEOS, RELATED FILM CLIPS, PHOTOGRAPHS, AND OTHER MULTIMEDIA MATERIALS; AND FAN CLUBS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 7-1-1962; IN COMMERCE 7-1-1962.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,494,026, 2,500,042 AND OTHERS.

SER. NO. 78-820,180, FILED 2-21-2006.

JEFF DEFORD, EXAMINING ATTORNEY